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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,811	09/11/2003	Patrick N. Nelson	MS1-1540US	5257

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EXAMINER

CHAU, COREY P

ART UNIT	PAPER NUMBER
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2615

DATE MAILED: 12/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/659,811	Applicant(s) NELSON, PATRICK N.	
	Examiner Corey P. Chau	Art Unit 2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-24 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

3. With regards to Claims 1-24 Section 101 of title 35, United States Code, provides:

Whoever invents or discovers any new and **useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof**, may obtain a patent therefor, subject to the conditions and requirements of this title.

The claimed invention as a whole must be **useful and accomplish a practical application**. That is, it must produce a useful, concrete and tangible result. In the instant case, **the claim invention as a whole does not provide a *transformation or reduction of an article to a different state or thing* and the claim invention, as a whole does not produce a useful, concrete, and tangible result**. The applicant is in the best position to explain why an invention is believed useful. Accordingly, a complete disclosure should contain some indication of the practical application for claimed invention i.e., why the applicant believes the claimed invention is useful. Such a statement will usually explain the purpose of the invention or how the invention may be

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used. Claim 1 recites “in response to a user input to raise gain in one band of a multi-band computer implemented equalizer, computing a lower gain for at least one other band of the equalizer”, which does not **provide a transformation or reduction of an article to a different state or thing** and the claim invention, as a whole **does not produce a useful, concrete, and tangible result**. Claims 2-6 also fails to **provide a transformation or reduction of an article to a different state or thing** and the claim invention, as a whole **does not produce a useful, concrete, and tangible result**.

Claim 7 recites “a routine stored in the memory that when executed by any of the processors causes the processor to perform actions including computing a lower gain for at least one first band of a multi-band equalizer in response to a user input to raise gain in a second band of the equalizer” which does not **provide a transformation or reduction of an article to a different state or thing** and the claim invention, as a whole **does not produce a useful, concrete, and tangible result**. Claims 8-12 also fails to **provide a transformation or reduction of an article to a different state or thing** and the claim invention, as a whole **does not produce a useful, concrete, and tangible result**. Claim 13 recites “in response to raising a gain in one band of a multi-band equalizer, calculating an approximately uniform lower gain in the other bands of the equalizer” ”, which does not **provide a transformation or reduction of an article to a different state or thing** and the claim invention, as a whole **does not produce a useful, concrete, and tangible result**. Claims 2-6 also fails to **provide a transformation or reduction of an article to a different state or thing** and the claim invention, as a whole **does not produce a useful, concrete, and tangible result**.

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Claims 14-17 also fails to provide **a transformation or reduction of an article to a different state or thing** and the claim invention, as a whole **does not produce a useful, concrete, and tangible result**. Claim 18 recites "first means for determining a lower gain for at least one first band of a multi-band equalizer in response to a user input to raise gain in a second band of the equalizer; and second means for providing a user input to raise gain in a second band of the equalizer to said first means", which does not provide **a transformation or reduction of an article to a different state or thing** and the claim invention, as a whole **does not produce a useful, concrete, and tangible result**. Claims 19-24 also fails to provide **a transformation or reduction of an article to a different state or thing** and the claim invention, as a whole **does not produce a useful, concrete, and tangible result**. Therefore Claims 1-24 are rejected for the reasons stated above. Claim 1-24 not disclose any new and useful process, machine, manufacture, or composition of matter; or any new and useful improvement thereof.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corey P. Chau whose telephone number is (571)272-7514. The examiner can normally be reached on Monday - Friday 9:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on (571)272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

December 11, 2006

CPC



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